

Decision 05-09-035 September 22, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Los Angeles County Metropolitan Transportation Authority for an order authorizing the construction of a two-track grade separated crossing for the Eastside Corridor Light Rail Transit Line within a median of Third Street, beneath and within the existing structures for the State 60 Freeway westbound connector, for the State 60 Freeway, for the I-710 Freeway southwest connector, and for the I-710 Freeway southeast connector along with a grade separated crossing on an existing structure above the I-710 Freeway in the County of Los Angeles.

Application 04-09-008
(Filed September 2, 2004)

O P I N I O N

Summary

This decision grants Los Angeles County Metropolitan Transportation Authority's (LACMTA) request for authority to construct, as part of LACMTA's Eastside Corridor Light Rail Transit Line (ELRL) project, five new grade separated highway-rail crossings (grade separations). LACMTA will construct two new ELRL tracks within the median of Third Street, beneath and within the existing structures of State Route (SR) 60 Freeway westbound connector, SR-60 Freeway, Interstate (I) 710 Freeway southwest connector, and I-710 Freeway

southeast connector and on an existing bridge structure above I-710 Freeway, in Los Angeles County.

Discussion

LACMTA requests authority to construct five new grade separations by constructing, within the median of Third Street, two ELRL tracks beneath and within the existing structures for SR-60 Freeway westbound connector, SR-60 Freeway, I-710 Freeway southwest connector, and I-710 Freeway southeast connector and on one existing bridge structure above I-710 Freeway. Table 1 below lists each proposed grade separation and its identifying California Public Utilities Commission (CPUC) crossing number.

Table 1: Grade Separation Identification

Grade Separation Location	CPUC Crossing No.
SR-60 Freeway West Connector	84E-4.20-A
SR-60 Freeway	84E-4.25-A
I-710 Freeway Southwest Connector	84E-4.83-A
I-710 Freeway	84E-4.87-B
I-710 Freeway Southeast Connector	84E-4.90-A

Barriers between the trackway and adjacent vehicle lanes on Third Street will prevent motor vehicles from accessing the track area beneath the freeway structures where LACMTA, County of Los Angeles (County), and State of California Department of Transportation (Caltrans) cannot attain a minimum of 18 feet vertical clearance between the overhead contact wire and the paved track area. All construction shall conform to applicable Commission General Orders (GO), including GOs 72-B, 95 and 143-B

The ELRL will have a double track with overhead power distribution and will operate electrically powered cars 90 feet in length. As stated in GO 143-B, Section 9.04(b)(4), the alignment classification is semi-exclusive. This alignment classification describes the situation of tracks “Within street right-of-way, but protected by mountable curbs, striping, or lane designation.” Furthermore, trains will operate at a speed no greater than the maximum allowable automotive speed of the street traveled, within a maximum speed of 35 miles per hour. LACMTA will utilize an over speed protection system in the event a train operator exceeds the 35 miles per hour speed and the operator does not respond to the over speed indication. In such instances, a train will stop automatically.

In accordance with two Master Cooperative Agreements, Caltrans and the County separately and LACMTA will bear construction and design costs of the project. LACMTA will bear the sole cost and expense to construct and maintain the proposed two tracks beneath the existing freeway and connector structures for the I-710 and SR-60 Freeways and on the existing bridge structure above the I-710 Freeway. Caltrans and LACMTA will alter the freeway, connector and bridge structures to accommodate the two tracks. The County will bear the costs associated with the maintenance of the barriers along Third Street that prevent motor vehicles from accessing the tracks.

LACMTA is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended in 1982 and as stated in Public Resources (PR) Code Section 21000 et seq. LACMTA prepared a Final Supplemental Environmental Impact Statement/Final Subsequent Environmental Impact Report (Final SEIS/SEIR), assigned State Clearinghouse (SCH) Number 1999081061, for the project on January 4, 2002. On February 28, 2002, the LACMTA Board of Directors approved the project and adopted the

Final SEIS/SEIR. On March 1, 2002, in compliance with PR Code Sections 21108 and 21152, LACMTA filed a Notice of Determination (NOD) with the State Clearinghouse and the Los Angeles County Clerk. The NOD is attached to Appendix A of the order. The NOD concluded that the project will have a significant effect on the environment and mitigation measures were made a condition for project approval. Findings were made pursuant to the provisions of CEQA, and LACMTA adopted a "Statement of Overriding Considerations" (SOC) for this project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission has reviewed the lead agency's environmental documents, and we find them adequate for our decision-making purposes. These documents include the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061), prepared jointly by the United States Department of Transportation – Federal Transit Administration and LACMTA. In considering this document, we note that the Final SEIS/SEIR developed and evaluated a range of alternatives as well as a "No-Build Alternative." The Final SEIS/SEIR included an analysis of potential environmental impacts related to the project and alternatives related to, among other items, transportation, land use and development, land acquisition/displacement and relocation, air quality,

noise and vibration, and safety. Safety, transportation and noise are within the scope of the Commission's permitting process. The Final SEIS/SEIR (Volume I) contains statements pertaining to the affected environment, methodology for impact evaluation, impacts, and mitigation. LACMTA identified environmental impacts related to safety, transportation, and noise.

The "Findings Of Fact And Statement Of Overriding Considerations," (FFSOC) contains statements pertaining to impacts, mitigation measures, and findings for each impact. The FFSOC categorized these impacts as "Significant Effects Determined to be Mitigated to a Less Than Significant Level," "Significant Effects That Are Not Mitigated to a Less Than Significant Level," and "Effects Determined Not to be Significant or Less Than Significant." Included in the FFSOC are the SOC and "Mitigation Monitoring Plan" (MMP). The LACMTA Board of Directors adopted the SOC with respect to significant and unavoidable adverse environmental impacts identified in the Final SEIS/SEIR and FFSOC, including those impacts related to safety, transportation, and noise.

The LACMTA Board of Directors found that the benefits of the proposed project outweigh the unavoidable significant adverse environmental impacts. The Board of Directors determined that each of the separate benefits identified in the SOC, in itself and independent of other project benefits, is a basis for overriding all unavoidable impacts identified in the Final SEIS/SEIR and noted in the Board of Directors' findings. Specific overriding benefits resulting from the project include restoring the balance of regional capital transportation expenditures, improving access for area residents to local destinations and regional rail and bus systems, providing convenient and reliable transportation, and decreasing annual regional vehicle miles traveled.

In reviewing the Final SEIS/SEIR and MMP, we find that with respect to issues within the scope of our permitting process, LACMTA, where possible, adopted feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt LACMTA's findings and mitigations for purposes of our approval.

With respect the SOC, we find that the Board of Directors enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably justify approval of the project despite certain significant and unavoidable impacts. Therefore, we accept and adopt the findings of the SOC for purposes of our approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) inspected the sites of the proposed grade separations. RCES discussed safety concerns with LACMTA regarding additional pavement markings to serve as guidance to motorists. LACMTA agreed to modify its designs and submit revised exhibits to the Commission. On June 10, 2005 LACMTA submitted an Erratum for the application containing minor revisions to the design exhibits. The revisions consisted of additional yellow pavement markings outside of the trackway to provide guidance to motorists to safely respect the barriers between the trackway and adjacent vehicle lanes to prevent vehicles from accessing the track area beneath the freeway structure where a minimum of 18 feet between the overhead contact wire and the paved track area cannot be attained. After reviewing the need for and the safety of the proposed grade separations, RCES recommends that the Commission grant LACMTA's requests.

The Application is in compliance with the Commission's filing requirements, including Rule 40 of Rules of Practice and Procedure, which

relates to the construction of railroad tracks across public highways. A site map and detailed drawings of the proposed grade separations are shown in Appendix B attached to the order.

Categorization and Need for Hearings

In Resolution ALJ 176-3139, dated September 23, 2004, and published in the Commission Daily Calendar on September 24, 2004, the Commission preliminarily categorized the Application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, these preliminary determinations remain correct. It is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3139.

Waiver of Comment Period

This Application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), we waive the otherwise applicable 30-day period for public review and comment.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published Notice of the Application in the Commission Daily Calendar on September 10, 2004. There are no unresolved matters or protests; a public hearing is not necessary.

2. LACMTA requests authority, under Public Utilities Code Sections 1201-1205, to construct five new grade separations by constructing, within the median of Third Street, two ELRL tracks beneath and within the existing structures for SR-60 Freeway westbound connector, SR-60 Freeway, I-710 Freeway southwest

connector, and I-710 Freeway southeast connector and on one existing bridge structure above I-710 Freeway, in Los Angeles County.

3. Public convenience, necessity, and safety require construction of the proposed grade separations.

4. LACMTA is the lead agency for this project under CEQA, as amended.

5. In approving the project on February 28, 2002, the LACMTA Board of Directors adopted the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061) and found that “The project will have a significant effect on the environment.” Mitigation measures were made a condition of the approval of the project. Findings were made pursuant to the provisions of CEQA. An SOC was adopted for this project.

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Final SEIS/SEIR, NOD, and SOC. We find these documents to be adequate for our decision-making purposes.

7. Safety, transportation and noise are within the scope of the Commission's permitting process.

8. For the approved project, the lead agency identified environmental impacts related to safety, transportation and noise.

Conclusions of Law

1. With respect to significant impacts from safety, transportation and noise, we find that the lead agency adopted feasible mitigation measures where possible to substantially lessen the environmental impacts to a less-than-significant level. We adopt these mitigation measures for purposes of our approval. With respect to the significant and unavoidable environmental impacts, we find that LACMTA enumerated several significant benefits to justify

project approval. Therefore, we also adopt the SOC for purposes of our approval.

2. The Application is uncontested and a public hearing is not necessary.
3. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Los Angeles County Metropolitan Transportation Authority (LACMTA) is authorized to construct, as part of LACMTA's Eastside Corridor Light Rail Transit Line (ELRL) project, five new grade-separated highway-rail crossings. LACMTA will construct two new ELRL tracks within the median of Third Street beneath and within the existing structures of State Route (SR) 60 Freeway westbound connector, SR-60 Freeway, Interstate (I) 710 Freeway southwest connector, and I-710 Freeway southeast connector and on an existing bridge structure above I-710 Freeway, in Los Angeles County, at the locations listed in this order and substantially as described and shown by plans attached to the Application and Appendix B attached to this order.

2. Clearances and walkways shall conform to all applicable Commission General Orders and the Manual on Uniform Traffic Control Devices as amended by the California Supplement.

3. In accordance with two Master Cooperative Agreements, State of California Department of Transportation and County of Los Angeles (County) separately and LACMTA shall bear construction and design costs of the project. LACMTA shall bear the sole cost and expense to construct and maintain the tracks beneath the existing freeway and connector structures and upon the existing bridge structure above the I-710 Freeway. The County shall bear the

costs associated with the maintenance of the barriers along Third Street that prevent motor vehicles from accessing the tracks.

4. Within 30 days after completion of the work under this order, LACMTA shall notify the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

5. This authorization shall expire if not exercised within three years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

6. The Commission grants the Application as set forth above.

7. Application 04-09-008 is closed.

This order becomes effective 30 days from today.

Dated September 22, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners

APPENDIX A


ENVIRONMENTAL DOCUMENTS

FILED

MAR 01 2002

NOTICE OF DETERMINATION

CONNIE B. MCCORMACK, COUNTY CLERK


 DEPUTY

To: X Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: Los Angeles County Metropolitan
Transportation Authority
One Gateway Plaza
Mail Stop 99-22-2
Los Angeles, CA 90012-2952

X County Clerk
Los Angeles, California
12400 Imperial Highway
Norwalk, CA 90650

Subject: Filing of Notice of Determination in compliance with Sections 21108 and 21152 of the Public Resources Code.

Project Title: Los Angeles Eastside Corridor Light Rail Transit Build Alternative Option B

State Clearinghouse Number: 1999081061

Lead Agency Contact Person: Ray Sosa

Telephone: (213) 922-3098

Project Location: City of Los Angeles; Los Angeles County, California

Project Description:

The Los Angeles Eastside Corridor Light Rail Transit Build Alternative Option B is a six mile, nine station project which will be an extension of the under construction Pasadena Metro Gold Line. The project extends from Union Station to Atlantic Boulevard in East Los Angeles, via Alameda Street, First Street, Indiana Street, Third Street, and Pomona Boulevard.

This is to advise that the Los Angeles County Metropolitan Transportation Authority has approved the above described project on February 28, 2002 and has made the following determinations regarding the above described project.

1. This project X (will) (will not) have a significant effect on the environment in that:
 - a. Temporary impacts during construction will occur with regards to parking losses, traffic disruption, and sidewalk closures. MTA has identified mitigation measures to address these impacts, however, it is possible that some impacts during construction cannot be completely mitigated.
 - b. Tunneling during construction of subway segment or pile driving for the aerial segment may result in destruction of some fossils. MTA will make every effort to ensure that fossil recovery is maximized.
 - c. Despite mitigation measures, temporary air quality, noise and vibration impacts are possible during construction. Temporary visual impacts may also occur in the vicinity of Chavez/Soto construction staging area if screening materials cannot prevent impacts on multi-story land uses.
 - d. Ten traffic intersections will be significantly impacted and cannot be fully mitigated.
 - e. Catenary system on the 1st Street Bridge will add to visual overhead clutter. However, no historical features will be adversely affected.
 - f. Exterior noise levels and moderate sound impacts adjacent to special trackwork may occur if mitigation measures are not sufficient to eliminate impact. The MTA is committed to ensuring noise impacts are minimized.

NOTICE WAS POSTED
MAR 01 2002

IL APR 01 2002

ISTRAR-RECORDER/COUNTY CLERK

Los Angeles Eastside Corridor Light Rail Transit Build Alternative Option B

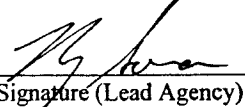
00000179

- g. The project will require property acquisition and relocation of residents and businesses. There is the possibility that some residents and businesses may have to be relocated outside of the corridor.
2. X An Environmental Impact Report was prepared for this project pursuant to the provision of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures X (were) (were not) made a condition of the approval of the project.
4. Findings X (were) (were not) made pursuant to the provisions of CEQA
5. A Statement of Overriding Considerations X (was) (was not) adopted for this project.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Mail Stop 99-22-02
Los Angeles, CA 90012
Contact: Ray Sosa

Date Received for Filing and Posting at OPR:

 3/1/02
Signature (Lead Agency)

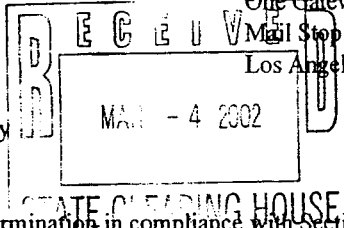

Title

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To: X Office of Planning and Research From: Los Angeles County Metropolitan
1400 Tenth Street, Room 121 Transportation Authority
Sacramento, CA 95814 One Gateway Plaza
Mail Stop 99-22-2
Los Angeles, CA 90012-2952

X County Clerk
Los Angeles, California
12400 Imperial Highway
Norwalk, CA 90650

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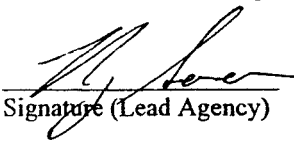
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 - b. Tunneling during construction of subway segment or pile driving for the aerial segment may result in destruction of some fossils. MTA will make every effort to ensure that fossil recovery is maximized.
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- g. The project will require property acquisition and relocation of residents and businesses. There is the possibility that some residents and businesses may have to be relocated outside of the corridor.
2. X An Environmental Impact Report was prepared for this project pursuant to the provision of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
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4. Findings X (were) (were not) made pursuant to the provisions of CEQA
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One Gateway Plaza
Mail Stop 99-22-02
Los Angeles, CA 90012
Contact: Ray Sosa

Date Received for Filing and Posting at OPR:

 3/1/02
Signature (Lead Agency)


Title

APPENDIX B

PLANS

PLANS

